

# The Institutional Mechanisms Of The Development Of The Electoral System In Uzbekistan

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The Constitution of the Republic of Uzbekistan defines the right of citizens to vote and to be elected, the foundations of the national electoral system, the basis of which are the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and ratification by Uzbekistan, constituting the principles of democracy, including independence, legitimacy, transparency and fairness, enshrined and recognized in other international legal instruments.

Article 117 of the Basic Law states that citizens of the Republic of Uzbekistan have the right to elect and be elected to representative bodies of state power that every voter has one vote, the right to vote, equality and freedom of expression which are guaranteed by law. Voters, observers, candidates, representatives of political parties and their authorized representatives, representatives of the media, proxies and citizens' self-government bodies shall be informed of the basic procedures, rights and obligations related to the activities of the electoral process and their protection. The legal guarantees for the election are set out in detail in the Electoral Code of the Republic of Uzbekistan.

In order to ensure the transparency and openness of the elections, our legislation requires media representatives to cover all activities related to the preparation and conduct of elections, to be present at polling stations on election day, including during the counting of votes. Another noteworthy aspect is that it is strictly defined as having the right to **determine** the role of courts in ensuring the observance of the norms of law established by law by all people in the processes related to the conduct of elections, the rights and freedoms of the people participating in elections, the protection of their legitimate interests. In particular, how applications and complaints are considered by election commissions in the pre-trial procedure, as well as, the specifics of judicial review of election-related disputes which is determined by election commissions.

The Central Election Commission heads the system of election commissions formed for the conduct of elections of the President of the Republic of Uzbekistan and elections to the Oliy Majlis of the Republic of Uzbekistan. One of the powers of this commission is to consider appeals of voters and other participants in the election process and make decisions on them (Article 14 of the Electoral Code).

Regional, district and city election commissions are formed to organize and conduct elections of local councils. One of the powers of this commission is to consider appeals of voters and other participants of the election process and make decisions on them (Article 20 of the Electoral Code).

District election commissions are formed by the Central Election Commission to conduct elections of the President of the Republic of Uzbekistan and elections to the Oliy Majlis of the Republic of Uzbekistan, and district election commissions for elections of local councils are formed by relevant regional, district and city election commissions. One of the powers of this commission is to consider appeals of voters and other participants of the election process and make decisions on them (Article 22 of the Electoral Code).

The precinct election commission are formed by the district election commission. One of the powers of this commission is also to consider appeals of voters and other participants of the election process and make decisions on them (Article 22 of the Electoral Code). The precinct election commission shall consider citizens' complaints about errors or inaccuracies in the voter lists within 24 hours. The precinct election commission shall also consider complaints (applications) received during voting and counting of votes before making a decision on the results of voting.

Article 25 of the Electoral Code stipulates that the requirements for members of an election commission and the right to deprive a commission member of his or her powers belong to the body that established the commission. This means that a member of the election commission who has been deprived of his / her powers has the right to appeal to a higher election commission as another participant in the election process if he / she is dissatisfied with the decision of the relevant commission.

According to Article 33 of the Electoral Code, the terms and procedure for issuing mandates to observers from political parties, citizens' self-government bodies, as well as other states and international organizations are specified. In case of violation of this deadline and procedure, political parties, citizens' self-government bodies, other states and international organizations have the right to appeal to the relevant commission or a higher commission. Election commissions also have the right to consider appeals from authorized representatives of political parties and the media.

Nomination of candidates by a decision of a political party, when the decision of a political party to nominate a person is revoked, the election commission is given to the election commission as a right, not as an obligation (Article 42.1). may complain to the Central Election Commission his / her action (decision) not to deprive him / her of the status of a candidate.

Election commissions have the right to consider appeals of political parties regarding the procedure, volume and time of use of mass media for campaigning purposes, informing voters about the place and time of meetings with voters, and appeals of candidates and political parties on actions of district or precinct commissions.

In accordance with paragraph 3 of Article 27 of the Code of Administrative Procedure of the Republic of Uzbekistan, a voter or other participants in the election process has the right to appeal to a higher election commission, if they are dissatisfied with the inaction of election commissions, as it is determined to resolve cases on disputes over the actions (decisions) of election commissions. Unlawful inaction can be understood as the failure of an election commission to perform the actions that it is obliged to perform in accordance with its duties and obligations, and as a result, the rights of the individual are violated.

Actions or decisions of election commission officials that do not comply with the law, violate the rights and legally protected interests of organizations and citizens, may be regarded as the subject of appeal. According to the general content of the election legislation, a person whose

rights have been violated, as a rule, is guaranteed the right to appeal to the higher election commission or the court against the decisions of election commissions and their actions. That is, the interested person is provided with an administrative and judicial procedure for appealing against the decisions of election commissions and their actions.

Failure to comply with the administrative procedure for filing an appeal shall not preclude the right of the interested person to apply to the court, except in cases expressly provided for by law.

These are:

1. Based on the content of Article 102 of the Electoral Code, applications on actions and inactions of election commissions shall be considered by a higher election commission, bodies of political parties nominated by candidates who are dissatisfied with the response to the application; candidates, proxies, observers and voters have the right to appeal to the court;

2. The dispute over the voter lists must be considered first by the referendum commission. Every citizen of the Republic of Uzbekistan may complain to the precinct commission conducting the referendum about an error or inaccuracy in the list of voting citizens. The precinct commission conducting the referendum must, within twenty-four hours, examine such an application and correct any errors or issue a certificate to the applicant stating the grounds for the rejection of his application. This certificate can be appealed to the administrative court as an administrative document because it affects the rights of the citizen. The election law also provides for some decisions to be appealed directly to the courts:

1) Resolutions of joint sessions of the Jogorku Kenesh of the Republic of Karakalpakstan, relevant regions, the city of Tashkent, as well as local councils of districts and cities, as well as the Central Election Commission on this type of elections appeals of decisions to the Supreme Court of the Republic of Uzbekistan within ten days;

3. Mahalliy Kengashlarga o'tkazilgan saylovni haqiqiy emas deb topish to'g'risidagi tegishli saylov komissiyasining qarori ovoz berish yakunlari e'lon qilingan kundan e'tiboran o'n kun ichida tegishli tuman (shahar) ma'muriy sudga shikoyat qilinishi mumkin.

3) The decision of the relevant election commission to declare the elections to local councils invalid may be appealed to the relevant district (city) administrative court within ten days from the date of announcement of the results of voting.

Entities that have the right to appeal to the court in this category of cases differ from the subjects in other categories of administrative cases. In particular, the bodies of political parties, citizens' self-government bodies, candidates for deputies to local councils, candidates, observers, voters and bodies of political parties nominated during the elections to the Oliy Majlis of the Republic of Uzbekistan, candidates for deputies, proxies (if such authority is provided for in the power of attorney), observers and voters are the ones who are entitled to appeal against the decision of the election commission or its actions (inaction).

According to Article 46 of the Code of Administrative Procedure of the Republic of Uzbekistan, such applications may be filed by the prosecutor in the interests of the above-mentioned persons. In this case, the voter - not to consider or unreasonably reject the application for correction of errors or inaccuracies in the voter list within 24 hours, not to be included in the voter list, incorrect entry or deregistration, to exercise the right to vote earlier. in cases such as obstruction or non-consideration or rejection of the application for the exercise of this right; Observer - dissatisfied with the response of election commissions to the

relevant election commission on actions (inaction) in violation of the electoral legislation in the conduct of elections, on complaints about the elimination of violations of the law;

Candidate - dissatisfied with the response to the appeal to the relevant election commission on the restoration of his violated rights, may appeal against the violation of the law; bodies of political parties - may appeal against the decision to disqualify a candidate, to reject an application for permission to participate in elections, to refuse to register the nominated candidates, to reject a request to deprive the nominated candidate of the status of a candidate; Citizens' Self-Government Bodies - Rejection of Candidates for Membership in District and Precinct Election Commissions, Refusal to Register Candidates for District and City Councils of People's Deputies may appeal decisions of election commissions;

a proxy - may be dissatisfied with the response he received to the relevant election commission on the restoration of his violated rights and may file a complaint on the elimination of violations of the law.

It should be noted that the above list of participants in the election process and the list of cases is not exhaustive, and voters and other participants in the election process have the right to appeal to the courts to restore their violated rights. When the actions (decisions) of the election commission are appealed in court, the election commission shall be indicated as the respondent in the appeal.

However, it is not allowed to refuse to accept the complaint, terminate the proceedings or reject the claim on this basis on the grounds that the complaint is not the responsibility of the election commission, but its chairman or deputy chairman. In this case, the election commission is interpreted as responsible.

In this category of cases, the deadline for filing a complaint to the courts established by the election legislation is strict, and its restoration is not provided by law.

Accordingly, the expiration of the period for filing a complaint to the court established by the legislation governing this category of relations shall be grounds for rejection of the claimed claim.

The form and content of the application (complaint) submitted to the court must meet the requirements of Article 128 of the Code of Administrative Procedure of the Republic of Uzbekistan.

The complaint on invalidation of the decisions of the election commission shall contain the following:

- 1) the name of the court where the application (complaint) is filed;
- 2) name (surname, name and patronymic) and location (postal address) of the person who filed the application (complaint), what participant of the election process he / she is;
- 3) name (serial number) of the election commission that adopted the disputed decision, its address;
- 4) the name, serial number, summary of the date of issue, and other information of the disputed decision;
- 5) rights and interests protected by law, which, in the opinion of the person who filed the application (complaint), are violated by the disputed decision or a certain part of it (special rules
- 6) which legislation, in the opinion of the person who filed the application (complaint), does not comply with the disputed decision or a certain part of it (special rules);
- 7) request of the person who filed the application (complaint);
- 8) the circumstances presented by the person who filed the application (complaint) as the basis for his claims and the evidence confirming these circumstances;
- 9) list of documents attached to the complaint.

The application may also include the telephone and fax numbers, e-mail address of the complainant or his representative, as well as the other party. In addition to the information provided for in Article 128 of the Code of Administrative Procedure of the Republic of Uzbekistan in the complaint on the illegality of the actions of the election commission:

- 1) last name, first name and patronymic, position, name (serial number) of the election commission of which this person who committed the appealed actions;
- 2) what the complained actions are, the date, time and place of the action;
- 3) in the opinion of the appellant, the rights and interests protected by law, which are violated by the committed acts;
- 4) legislation that, in the opinion of the appellant, the actions committed are inconsistent;
- 5) the claim of the appellant and the method of restoration of his / her right to declare the actions of the election commission illegal.

The complaint may also include the telephone and fax numbers, e-mail address of the complainant or his representative, as well as the other party.

The complaint must be accompanied by evidence that a copy was sent to the defendant and third parties, that state duties and postage were paid in the prescribed manner and amount.

In order to ensure the free exercise of the rights of individuals guaranteed by the Constitution of the Republic of Uzbekistan through the restoration of violated rights in the shortest possible time, the legislation provides for the shortest time for consideration of this category of complaints. That is, in accordance with Article 142 of the Code of Administrative Procedure of the Republic of Uzbekistan, a complaint against the actions (decisions) of the election commission must be considered by the court no later than three days from the date of the complaint, if less than six days remain before the election, should be considered immediately.

These procedural time limits established by the election legislation shall be strict for the court hearing the case, and no extension of these time limits shall be allowed.

Due to the fact that the election legislation stipulates that a complaint must be considered immediately if there are less than six days left until the election, it must be registered immediately through the office when a complaint is received in this category of case and should be registered and handed over to the judge.

Immediate consideration of a complaint means that the content will be considered on the day when the complaint is received by the court.

In accordance with Article 116 of the Code of Administrative Procedure of the Republic of Uzbekistan, the expiration of the procedural period, calculated in years, months or days, begins the day after the calendar date or the day of its occurrence.

Procedural periods calculated in years, months and days also include non-working days, except as otherwise provided by law.

Non-working days are days off (Saturday and Sunday) and holidays (non-working days) established by the legislation of the Republic of Uzbekistan.

In this regard, according to the labor legislation, due to the fact that the working day in court is Monday-Friday, complaints can be filed during the working day (from 09-00 to 18-00) on Mondays and Fridays.

Complaints filed or received (including in electronic form) in court outside of business hours and days shall be deemed to have been received on the first business day following.

The decision to restore the violated rights after the end of the election campaign will cause the decision to lose its significance or complicate its implementation. Accordingly, the courts shall promptly notify the applicant and instruct him to take measures to remedy the deficiencies before the commencement of the trial, without returning it on the grounds of

deficiencies in the application, as well as the one shall, within the scope of his authority, take steps to obtain all the evidence relevant to the case.

The application shall be considered by the court with the summoning of the complainant and a representative of the relevant election commission, as well as the prosecutor. The absence of persons who have been duly notified of the time and place of the hearing shall not preclude the consideration of the case.

In cases when decisions of an election commission are declared invalid, the election commission that adopted them shall be obliged to prove the circumstances on which these decisions were based.

In cases when the actions of an election commission are found to be unlawful, the obligation to prove the legality of these actions shall be imposed on the relevant election commission.

If the election commission that made the decision fails to prove the circumstances that led to its adoption, as well as the legality of the decision or action, does not violate the rights and legally protected interests of the appellant, the claim shall be satisfied.

In turn, the applicant must also substantiate that the decision of the election commission violates his rights and legally protected interests.

Since the election commission is responsible for proving evidence in this category of cases, the courts must notify the election commission of the time and place of the court hearing in the prescribed manner. Failure of a representative of the election commission, duly notified of the time and place of the trial, to appear in court shall not preclude the hearing of the case.

In order to ensure the timely and quality consideration of this category of cases, the courts may consider the case in a mobile court session in the building where the election commission is located.

Based on the results of the appeal, the court finds the decision of the election commission invalid, finds its actions illegal, and obliges the election commission to satisfy the applicant's claim or otherwise violate his violated rights and freedoms. restores with.

Upon issuance of a court decision on the results of the case, it shall be immediately handed over (sent) to the relevant election commission and the person who filed the complaint. A writ of execution shall not be issued for such a decision, the decision of the court shall be immediately sent to the relevant election commission for execution. If the courts find a violation of law and order by members of the election commission during the consideration of the case, they must issue a special ruling (decision) and send it to the higher election commission.

According to the Code of Administrative Procedure of the Republic of Uzbekistan, the court in which the persons involved in the case, as well as persons not involved in the case, but whose rights and obligations have been decided by the court the prosecutor has the right to appeal against his decisions, and the prosecutor has the right to protest. In case of appeal (cassation) against the decisions made in this regard, the court of first instance must send the appeal together with the administrative case to the court of appeal (cassation) on the same day. The issue of accepting the appeal (cassation) to the proceedings must be resolved no later than five days. The trial court shall consider the complaint as soon as possible, as provided by law.

### **Iqtiboslar/Сноски/References**

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